

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 ANTONIO LOPEZ, JR.
Deputy Attorney General
4 State Bar No. 206387
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2536
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

Case No. 4421

13 **MARY DOREEN NOONAN**

STATEMENT OF ISSUES

14 Respondent.

15 Complainant alleges:

16 **PARTIES**

17 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
18 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

19 2. On or about January 17, 2012, the Board of Pharmacy (Board) received an
20 application for Registration as a Pharmacy Technician from Mary Doreen Noonan (Respondent).
21 On or about January 10, 2012, Mary Doreen Noonan certified under penalty of perjury to the
22 truthfulness of all statements, answers, and representations in the application. The Board denied
23 the application on July 3, 2012.

24 **JURISDICTION**

25 3. This Statement of Issues is brought before the Board under the authority of the
26 following laws. All section references are to the Business and Professions Code unless otherwise
27 indicated.

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"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

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(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made."

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or

1 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
2 made suspending the imposition of sentence, irrespective of a subsequent order under the
3 provisions of Section 1203.4 of the Penal Code."

4 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
5 subject to discipline, including suspension or revocation.

6 7. Section 4301 states, in pertinent part:

7 "The board shall take action against any holder of a license who is guilty of unprofessional
8 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
9 Unprofessional conduct shall include, but is not limited to, any of the following:

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11 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
12 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
13 whether the act is a felony or misdemeanor or not.

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15 "(l) The conviction of a crime substantially related to the qualifications, functions, and
16 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
17 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
18 substances or of a violation of the statutes of this state regulating controlled substances or
19 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
20 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
21 The board may inquire into the circumstances surrounding the commission of the crime, in order
22 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
23 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
24 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
25 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
26 of this provision. The board may take action when the time for appeal has elapsed, or the
27 judgment of conviction has been affirmed on appeal or when an order granting probation is made
28 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
3 indictment.

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5 "(p) Actions or conduct that would have warranted denial of a license."

6 **REGULATORY PROVISIONS**

7 8. California Code of Regulations, title 16, section 1770, states:

8 "For the purpose of denial, suspension, or revocation of a personal or facility license
9 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
10 crime or act shall be considered substantially related to the qualifications, functions or duties of a
11 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
12 licensee or registrant to perform the functions authorized by his license or registration in a manner
13 consistent with the public health, safety, or welfare."

14 **FIRST CAUSE FOR DENIAL OF APPLICATION**

15 **(Conviction of a Crime)**

16 9. Respondent's application is subject to denial under section 480, subdivision (a)(1), in
17 that Respondent was convicted of a crime. On or about April 10, 2007, after pleading guilty,
18 Respondent was convicted of one misdemeanor count of violating Penal Code section 422
19 [threaten with intent to terrorize] and one count of violating Penal Code section 12280,
20 subdivision (b) [posses any assault weapon] in the criminal proceeding entitled *The People of the*
21 *State of California v. Mary Doreen Noonan* (Super. Ct. Los Angeles County, 1997, No.
22 7JB03178). The Court sentenced Respondent to serve 60 days in Los Angeles County Jail and
23 placed her on 3 years probation, with terms and conditions. The circumstances surrounding the
24 conviction are that on or about April 7, 2007, Respondent became upset at S.S., pulled out an
25 AK-47 type assault rifle, pointed it at him, and stated, "I'm going to shoot you." S.S. managed to
26 take the assault rifle away from Respondent and fled Respondent's house leaving it behind.
27 Respondent chased him down the street to his sister's house where she pounded on the door
28 demanding to enter and asking for S.S. The Covina Police Department Officers detained

1 Respondent outside of the residence. When asked if she owned any weapons she stated, "I have a
2 Mack .90 rifle that I don't want anymore." The officers recovered the assault rifle from
3 Respondent's residence. Respondent was subsequently arrested for terrorist threats and
4 brandishing a firearm in a threatening matter.

5 **SECOND CAUSE FOR DENIAL OF APPLICATION**

6 **(Acts Warranting Denial of Licensure)**

7 10. Respondent's application is subject to denial under sections 4301, subdivision (p) and
8 480, subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a
9 licensee of the business and profession, would be grounds for suspension or revocation of her
10 license, as follows:

11 a. Respondent was convicted of crimes substantially related to the qualifications,
12 functions, or duties of a pharmacy technician which to a substantial degree evidence her present
13 or potential unfitness to perform the functions authorized by her license in a manner consistent
14 with the public health, safety, or welfare, in violation of sections 4301, subdivision (l), and 490,
15 in conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to,
16 and by this reference incorporates, the allegations set forth above in paragraph 9, as though set
17 forth fully.

18 b. On or about April 7, 2007, Respondent committed acts involving moral turpitude,
19 dishonesty, fraud, or deceit in violation of section 4301, subdivision (f). Complainant refers to,
20 and by this reference incorporates, the allegations set forth above in paragraph 9, as though set
21 forth fully.

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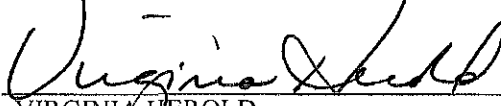
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Denying the application of Respondent for Registration as a Pharmacy Technician;
- and
2. Taking such other and further action as deemed necessary and proper.

DATED: 4/19/13


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

LA2012507642